



Department of Energy
Washington, DC 20585

July 11, 2012

Mr. Tom McCulloch
Advisory Council on Historic Preservation
Office of Federal Agency Programs
1100 Pennsylvania Avenue, NW Suite 803
Washington, DC 20004

Dear Mr. McCulloch:

SUBJECT: 2012 Fernald Preserve Archaeological Investigations Programmatic Agreement

- REFERENCE:**
- 1) Letter, David Snyder, Ohio Historic Preservation Office, Archaeology Reviews Manager, to Jane Powell, Fernald Preserve Manager, "2010-2011 Annual Report of Archaeological Activities Fernald Preserve, Hamilton and Butler Counties, Ohio," dated September 27, 2011
 - 2) Letter, Jane Powell, Fernald Preserve Manager to David Snyder, Ohio Historic Preservation Office, Archaeology Reviews Manager, "2012 Revisions to the Fernald Preserve Archeological Investigations Programmatic Agreement," dated January 12, 2012

Enclosed is the final revised *Programmatic Agreement Among the U.S. Department of Energy Office of Legacy Management and the Ohio Historic Preservation Office Regarding Archaeological Investigations at the Fernald Preserve*. This document has been in place since 1997 and satisfies consultation requirements for Section 106 of the National Historic Preservation Act. As suggested by the Ohio Historic Preservation Office (Reference 1), the Programmatic Agreement has been revised (Reference 2) to change the reporting frequency from annual to "as-needed." In addition to the change in reporting frequency, additional updates to the text have been made in order to reflect the change in site responsibility from the Office of Environmental Management to the Office of Legacy Management. A stipulation regarding completion of a predictive model for the site was deleted, since this deliverable was completed in 1997. A technical edit of the document was also completed, resulting in minor formatting changes.



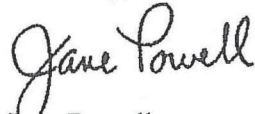
Mr. Tom McCulloch

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If you have any questions or require additional information, please call me at (513) 648-3148.
Please send any correspondence to:

U.S. Department of Energy
Office of Legacy Management
10995 Hamilton-Cleves Hwy.
Harrison, OH 45030

Sincerely,

A handwritten signature in cursive script that reads "Jane Powell".

Jane Powell
Fernald Preserve Site Manager
DOE-LM-20.2

Enclosure

cc w/enclosure: (electronic)
Project Record File (thru W. Sumner)
Administrative Records (thru W. Sumner)

cc w/o enclosure: (electronic)
B. Hertel, Stoller
J. Homer, Stoller
G. Hooten, DOE
T. Pauling, DOE
K. Reed, DOE



June 29, 2012

Mr. John Homer
Department of Energy
Office of Legacy Management
10995 Hamilton-Cleves Hwy.
Harrison, OH 45030

Re: 2012 Programmatic Agreement
Fernald Preserve, Hamilton and Butler Counties, Ohio

Dear Mr. Homer,

This is in response to correspondence from your office dated June 13, 2012 (received June 15) transmitting the 2012 Fernald Preserve Archaeological Investigations Programmatic Agreement. Enclosed please find the signed agreement. We appreciate your assistance in completing this agreement.

Any questions concerning this matter should be addressed to David Snyder at (614) 298-2000. Thank you for your cooperation.

Sincerely,

David Snyder, Ph.D., RPA, Archaeology Reviews Manager
Resource Protection and Review

DMS:ds (Serial Number 1044733)

Enclosure

OHIO HISTORICAL SOCIETY

Ohio Historic Preservation Office

1982 Velma Avenue, Columbus, Ohio 43211-2497 ph: 614.298.2000 fx: 614.298.2037
www.ohiohistory.org

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. DEPARTMENT OF ENERGY OFFICE OF LEGACY MANAGEMENT
AND THE OHIO HISTORIC PRESERVATION OFFICE
REGARDING ARCHAEOLOGICAL INVESTIGATIONS
AT THE
FERNALD PRESERVE**

WHEREAS, the U.S. Department of Energy (DOE) Office of Legacy Management (LM) proposes to administer response actions and/or associated activities at the Fernald Preserve as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. §§9601. *et seq.*); and

WHEREAS, response actions and/or associated activities include those actions required to fulfill DOE's responsibility under CERCLA for the Fernald Preserve property for the protection of public health, welfare and/or the environment (e.g., installation of new structures or roads, facilities and/or ground intrusive technology demonstrations).

WHEREAS, this Programmatic Agreement will cover the whole of the Fernald Preserve including those designated and bounded subareas that are categorized as follows: (1) those that have previously been surveyed for historic properties; (2) those that are undisturbed and possess the potential to be surveyed; and (3) those that were excluded from field investigations due to previous disturbance (see Attachments).

WHEREAS, DOE will ensure that the terms of this Programmatic Agreement will be carried out for all response actions and/or associated activities conducted at the Fernald Preserve, either on- or off-property.

WHEREAS, DOE has determined that implementation of response actions and/or associated activities at the Fernald Preserve may have an effect on historic properties and has consulted with the Advisory Council on Historic Preservation (the Council) and the Ohio Historic Preservation Office (OHPO) pursuant to 36 CFR §800.14 implementing Section 106 of the National Historic Preservation Act (NHPA) [16 §U.S.C. 470 (f)].

NOW THEREFORE, DOE and OHPO agree that the implementation of response actions and/or associated activities at the Fernald Preserve shall be administered in accordance with the following stipulations to satisfy DOE's NHPA Section 106 responsibility for all response actions and/or associated activities pertaining to the Fernald Preserve.

STIPULATIONS

- A. For each undertaking proposed by DOE pursuant to DOE's mission, goals, objectives, and/or responsibilities at or associated with the Fernald Preserve, prior to the initiation of the undertaking, DOE will determine if the undertaking has the potential to adversely affect one or more historic properties. In completing this assessment, DOE will determine if an archaeological survey or any other survey or investigation is needed to identify historic properties in the area of the undertaking.
1. In making its assessment and determinations, DOE will consider hazardous conditions that may be present in the area of the undertaking (see Attachment A for further discussion of factors DOE will consider), and results of previously conducted surveys and investigations (see Attachment B for list of archaeological reports on file at OHPO).
 2. At any time in its review of an undertaking, DOE may elect to initiate consultation with OHPO and/or other consulting parties. If DOE chooses to initiate consultation, the consultation will be carried out by agreement or following regulations at 36 CFR §800. DOE may initiate consultation to include, but not limited to, consideration of the level of effort needed to identify historic properties, reach consensus determinations of eligibility, or assess effects.
 3. As a courtesy, DOE will provide original quality bound copies together with electronic copies on appropriate media of all reports of cultural resources surveys or investigations to OHPO that are compiled as part of DOE's reviews of its undertakings under terms of this PA. Reports may be submitted to OHPO without initiating consultation on the undertaking or findings, and reports may be submitted after the initiation of an undertaking where DOE has completed a review of the undertaking with a finding that there will be no historic properties affected or there will be no adverse effects from the undertaking.
 4. For all undertakings where DOE determines that (1) there is no potential to affect historic properties, (2) no archaeological survey or other survey or investigations are warranted based on the size, scale, design, and location of the undertaking, (3) there are no reported historic properties in the area of the undertaking and conditions are such that in DOE's opinion it would not be safe to conduct a survey, (4) there are no historic properties in the area of the undertaking based on survey data, or, (5) the undertaking can be completed without adversely affecting an historic property, then DOE may proceed with the undertaking.
 5. For any undertaking where DOE determines that there is the potential for the undertaking to have an adverse effect on an historic property, DOE will consult with OHPO and other consulting parties as appropriate pursuant to regulations at 36 CFR §800.6 to resolve the adverse effect prior to initiating the undertaking.
 6. DOE is responsible for keeping an accurate file containing its decisions and findings for its undertakings.

- B. DOE will place this Programmatic Agreement in the CERCLA Administrative Record for Operable Unit 5, which is available to the public on the LM website (http://www.lm.doe.gov/CERCLA_Home.aspx) or by contacting the Fernald Preserve records staff at (513) 648-4449.
- C. In the unlikely event that the implementation of response actions and/or associated activities affect an already identified or previously undiscovered historic property inside or outside the Fernald Preserve site boundaries, DOE will consult with OHPO, pursuant to 36 CFR §800.11, to determine an appropriate course of action. DOE will avoid, to the extent practicable, and minimize adverse effects to the historic property until consultation has been completed. DOE will utilize the existing site procedures to assist in compliance with this stipulation.
- D. DOE will curate all artifacts excavated and removed during any Phase I survey, Phase II investigation, or Phase III data recovery and/or all artifacts resulting from inadvertent discovery to an appropriate curation facility pursuant to guidelines established at 36 CFR 79. DOE will remove human remains from a project area to ensure their protection upon initiation of consultation with all appropriate Native American Tribes and groups. Material determined to qualify as "cultural items" under the Native American Graves Protection and Repatriation Act and its implementing regulations (43 CFR Part 10), and which is to be repatriated to an appropriate tribe, shall be done so in accordance with the provisions of the law and the implementing regulations. Cultural items include human remains, associated funerary objects, unassociated funerary objects, sacred objects, and objects of cultural patrimony, as defined in the Native American Graves Protection and Repatriation Act.
- E. Any Party to this Programmatic Agreement may request in writing that it be amended, whereupon the Parties will, in accordance with 36 CFR §800.14, consult to consider such amendment.
- F. Any Party to this Programmatic Agreement may terminate it by providing thirty (30) days' written notice to the other Parties, provided that the Parties agree to consult during the period prior to termination to seek agreements on amendments or other actions that would avoid termination. In the event of termination, DOE will comply with 36 CFR §§800.4 through 800.6 regarding individual actions covered by this Programmatic Agreement.
- G. If DOE and OHPO cannot agree on any provision of this Programmatic Agreement, DOE, after determination that the dispute cannot be resolved, shall forward all documentation relevant to the dispute to the Council. Within thirty (30) days after receipt of such documentation, the Council will provide DOE with recommendations that DOE will take into account in reaching a final decision regarding the dispute. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; DOE's responsibility to carry out all actions under this Programmatic Agreement that are not the subject of the dispute will remain unchanged.

- H. DOE will provide information to the public through DOE's Community Involvement program. At any time during implementation of the measures stipulated in this Programmatic Agreement, should an objection to any such measure be raised by a member of the public, DOE will take the objection into account and consult as needed with the objecting party, OHPO and others as needed to resolve the objection.

By execution of this Programmatic Agreement, the Parties agree that performance by DOE of the activities identified herein will fully satisfy DOE's responsibilities under Section 106 of NHPA as those responsibilities pertain to the response and/or associated activities at the Fernald Preserve site.

The signatories to this Programmatic Agreement agree that each has the requisite authority to sign on behalf of the represented entity.

U.S. Department of Energy—Fernald Preserve

By: 

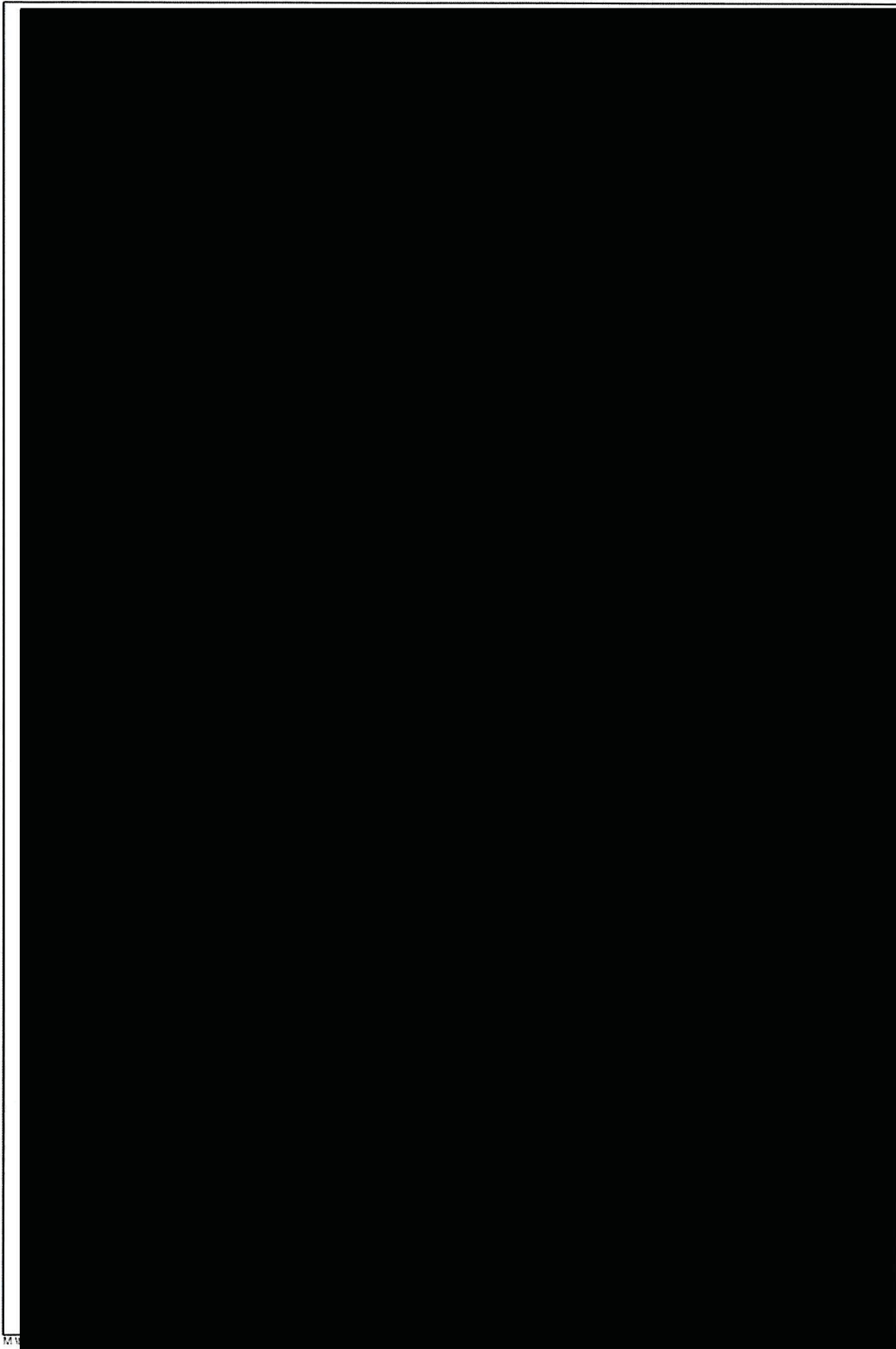
Date: 6/13/12

Ohio Historic Preservation Office

By: 

Date: 6.28.12

Attachment A



Attachment B

List of reports on file at OHPO

Title	Author	Year	Acres	Phase	OHPO File No.
Phase I Reports					
A PHASE I CULTURAL RESOURCE RECONNAISSANCE OF THE FEED MATERIALS PRODUCTION CENTER ALTERNATIVE WATER SUPPLY SYSTEM, FERNALD, HAMILTON COUNTY, OHIO	Ball, Donald B.	1992	54	1	11054
ADDENDUM REPORT: PHASE II ARCHAEOLOGICAL SURVEY OF FERNALD ENVIRONMENTAL MANAGEMENT PROJECT ALTERNATE WATER SUPPLY SYSTEM AND SOUTH GROUNDWATER CONTAMINATION PLUME RECOVERY WELL SYSTEM, HAMILTON COUNTY, OHIO	Pape, W. Kevin	1993	13	1	13193
PHASE I AND II CULTURAL RESOURCES INVESTIGATIONS OF THE PROPOSED HORIZONTAL GROUT BARRIER TEST PROJECT AREA, FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, HAMILTON COUNTY, OHIO	Farmer, Constance	1993	10	1	13192
PHASE I AND II ARCHAEOLOGICAL INVESTIGATIONS OF THE PROPOSED SITE INTEGRATED PARKING LOT WITHIN THE FERNALD PLANT, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1994	1	1	11038
PHASE I-III CULTURAL RESOURCES INVESTIGATIONS OF THE PUBLIC WATER SUPPLY PROJECT IN HAMILTON AND BUTLER COUNTIES, OHIO	Kozarek, Sue Ellen	1994	71	1	13187
PHASE I ARCHAEOLOGICAL INVESTIGATIONS OF THE EAST FIELD AND CONE PENETROMETER AREA AT THE FERNALD PLANT, ROSS TOWNSHIP, BUTLER COUNTY AND CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1994	90	1	11683
PHASE I AND II ARCHAEOLOGICAL INVESTIGATIONS OF THE PROPOSED GROUNDWATER MONITORING WELL ROAD SYSTEM AT THE FERNALD PLANT, HAMILTON AND BUTLER COUNTIES, OHIO	Baltz, Christopher J.	1994	21.5	1	11681
PHASE I, II, AND III ARCHAEOLOGICAL INVESTIGATIONS OF THE PROPOSED URANIUM SOILS INFILTRATION STUDY, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1994	5	1	11249

Title	Author	Year	Acres	Phase	OHPO File No.
PHASE I ARCHAEOLOGICAL INVESTIGATIONS OF THE PROPOSED CREW 2 RAILROAD SPUR MONITORING WELL AREA AT THE FERNALD FACILITY, MORGAN TOWNSHIP, BUTLER COUNTY, OHIO	Weed, Carol S.	1995	1	1	13185
PHASE I ARCHAEOLOGICAL INVESTIGATIONS OF A SOUTH FIELD ACCESS ROAD AND WELL SITE AT THE FERNALD FACILITY, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Long, Andrew P.	1995	6	1	13191
PHASE I ARCHAEOLOGICAL INVESTIGATIONS AT THE FERNALD PROPERTY SOUTH FIELD, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Long, Andrew P.	1995	88	1	13190
PHASE I CULTURAL RESOURCES INVESTIGATIONS AT THE FERNALD PROPERTY SOUTH BORROW AREA, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Long, Andrew P.	1995	76	1	13189
PHASE I ARCHAEOLOGICAL SURVEY OF THE FERNALD FACILITY NORTH PINE PLANTATION IN ROSS TOWNSHIP, BUTLER COUNTY, OHIO	Walley, Scott A.	1996	73	1	13499
PHASE I ARCHAEOLOGICAL SURVEY OF 35 ACRES ADJACENT TO THE EASTERN BOUNDARY OF THE FERNALD FACILITY IN HAMILTON AND BUTLER COUNTIES, OHIO	Hawkins, Rebecca A.	1996	45.5	1	13497
PHASE I CULTURAL RESOURCES INVESTIGATION AT AIR MONITORING STATION 6 ALONG PADDY'S RUN ROAD AT THE FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, (Crosby Township) HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	0.7	1	14025
PHASE I CULTURAL RESOURCES INVESTIGATIONS OF AN AIR MONITORING STATION AND A GRAVEL ACCESS ROAD AT THE FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, BUTLER COUNTY, OHIO	Baltz, Christopher J.	1997	3.5	1	14020

Title	Author	Year	Acres	Phase	OHPO File No.
PHASE I ARCHAEOLOGICAL AND ARCHITECTURAL INVESTIGATIONS AT THE PADDY'S RUN RAILROAD TRESTLE, ROSS TOWNSHIP, BUTLER COUNTY, AND CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	3	1	13765
PHASE I CULTURAL RESOURCES INVESTIGATIONS OF THREE AREAS AT THE FERNALD FACILITY: FERNALD RR SPUR PROPERTY, MORGAN TOWNSHIP, BUTLER COUNTY; AND SW PADDY'S RUN TERRACE AND SW PADDY'S RUN CREEK AREA, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Becher, Matthew E.	1997	5	1	13660
PHASE I CULTURAL RESOURCES INVESTIGATION FOR THE SOUTHERN WASTE UNIT'S PREPARATION PROJECT: RECHANNELLING OF PADDY'S RUN AT THE FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	0.7	1	14024
ADDENDUM: PHASE I CULTURAL RESOURCES INVESTIGATION OF THE PROPOSED NATURAL RESOURCES OVERLOOK PARKING LOT AND THE PROPOSED EMBANKMENT EROSION PROJECT ALONG PADDY'S RUN AT THE FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	1.2	1	14023
PHASE I CULTURAL RESOURCES INVESTIGATIONS OF THE PROPOSED NATURAL RESOURCES OVERLOOK PARKING LOT AND THE PROPOSED EMBANKMENT EROSION PROJECT ALONG PADDY'S RUN AT THE FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	5	1	14022
PHASE I CULTURAL RESOURCES INVESTIGATIONS OF A PROPOSED CINCINNATI GAS AND ELECTRIC SUBSTATION AT THE FERNALD ENVIRONMENTAL MANAGEMENT PROJECT, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	5	1	14021

Title	Author	Year	Acres	Phase	OHPO File No.
Phase II Reports					
PHASE II ARCHAEOLOGICAL INVESTIGATIONS OF SITES 33 HA 671 AND 33 HA 672 LOCATED IN THE FERNALD PROPERTY SOUTH FIELD, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Baltz, Christopher J.	1997	1.5	2	14026
PHASE II SIGNIFICANCE EVALUATIONS OF ARCHAEOLOGICAL SITES 33HA677, 33HA680, AND 33HA686, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Hawkins, Rebecca A.	1996	1.3	2	13537
PHASE II ARCHAEOLOGICAL INVESTIGATIONS AT THE FERNALD PROPERTY EAST FIELD AND CONE PENETROMETER AREA: SITE 33BU487, ROSS TOWNSHIP, BUTLER COUNTY AND SITES 33HA646, 33HA647, 33HA650, 33HA 654, AND 33HA662, CROSBY TOWNSHIP, HAMILTON COUNTY, O	Weed, Carol S.	1995	0.3	2	13188
PHASE II ARCHAEOLOGICAL INVESTIGATIONS AT THE FERNALD PROPERTY EAST FIELD AND CONE PENETROMETER AREA: SITE 33BU487, ROSS TOWNSHIP, BUTLER COUNTY AND SITES 33HA646, 33HA647, 33HA650, 33HA 654, AND 33HA662, CROSBY TOWNSHIP, HAMILTON COUNTY, O	Weed, Carol S.	1995	0.7	2	13188
Phase III Reports					
PHASE III ARCHAEOLOGICAL INVESTIGATIONS, PUBLIC WATER SUPPLY PROJECT SITES 33 HA 400, 33 HA 607, AND 33 HA 608, CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Seltz, Diane L.	1996	0.2	3	13755
PHASE III (DATA RECOVERY) ARCHAEOLOGICAL INVESTIGATIONS OF SITES 33HA646, 33HA654, AND 33HA662 FERNALD TOWNSHIP, EAST FIELD AREA CROSBY TOWNSHIP, HAMILTON COUNTY, OHIO	Seltz, Diane L.	1996	0.1	3	13539